

County Courts (Ireland) Bill.

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[Bill 104.]

Clause.

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26.

SCHEDULES.

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B I L L

To amend the Law relating to County Courts in Ireland.

A.D. 1884.

WHEREAS it is expedient to amend the law and procedure regulating County Courts in Ireland :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act shall extend to Ireland only.

Application
of Act.

2. This Act may be cited as the County Court Amendment (Ireland) Act, 1884.

Short title
of Act.

3. In this Act the terms " Lord Lieutenant," " Lord Chancellor," " chairman," " clerk of the peace," " civil bill court," shall have the same meaning as is provided by the fortieth and forty-first Victoria, chapter fifty-six.

Interpreta-
tion of terms.

Execution of Decrees.

4. Where one or more of several plaintiffs or defendants shall die after a decree, dismiss, or order shall have been made in any suit in a civil bill court, the execution of the said decree, dismiss, or order may be carried out by the survivors or survivor of the plaintiffs, or against the survivor or survivors of the defendants, without any renewal of such decree, dismiss, or order.

Execution
of decrees,
&c. after
death of one
or more
plaintiffs or
defendants.

5. Execution on a decree, dismiss, or order may issue on behalf of any person not a party to a suit, by leave of the clerk of the peace, upon proof to the satisfaction of the said clerk of the peace that such person is entitled to the benefit of the decree, dismiss, or order; and the said clerk of the peace shall cause the substitution of the name of the new plaintiff or plaintiffs, or, in a case of a dismiss, of the new defendant or defendants, to be entered on the decree, dismiss, or order, and on the record of the court.

Execution of
decrees, &c.
by persons
not parties
to suit.

6. A decree, dismiss, or order may be renewed against the personal representative of a plaintiff or defendant; provided, however,

Renewal of
decrees, &c.

[Bill 104.]

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A.D. 1883

that such renewal shall not be made against any person not a party to a suit unless upon proof made in open court that the party seeking such renewal has caused notice in writing, in accordance with the form now in use, to be served upon the person against whom it is sought to renew such decree, dismiss, or order, setting forth the particulars of such decree, dismiss, or order, and the amount for which such decree, dismiss, or order is sought to be renewed; such notice is to be served in like manner as an ordinary civil bill six clear days previous to the holding of the civil bill court to which such application is intended to be made, and is to be entered with the clerk of the peace, and heard and determined as an ordinary civil bill: Provided always, that a decree in ejectment for recovery of the possession of any lands or premises shall not be renewed after one year has elapsed from the date of such decree, save for the costs, except in the case provided by section forty-four of an Act of the twenty-seventh and twenty-eighth years of the reign of Her present Majesty, chapter ninety-nine.

Decree, &c.
not to be
renewed or
extended
after six
years.

7. No decree, dismiss, or order already made or pronounced, or hereafter to be made or pronounced, shall be executed or renewed after six years from the time of the making or pronouncing the same; but the debt and costs therein shall after six years be extinguished.

Affidavit
may be used
as evidence
on applica-
tions to re-
new a de-
cree, &c.

8. An affidavit made by or on behalf of any person seeking for a renewal of a decree, dismiss, or order, or by the known agent or receiver of such person, and sworn before a person authorised to take affidavits, to be used in the county court, shall be admissible as evidence on an application under this Act to renew a decree, dismiss, or order. The sufficiency of such affidavit shall be in the discretion of the judge of the civil bill court.

Costs of
renewing
decree, &c.

9. The costs of renewing a decree, dismiss, or order shall be the same as the costs of an ordinary civil bill, decree, or dismiss for a similar amount.

Practice.

Parties may
change their
solicitor.

10. When a solicitor on record for a party is unable to attend at the hearing of a suit, or when a party to a suit so desires, such party shall have power to change the solicitor on record, by delivering to the clerk of the peace, and to the solicitor on record for the opposite party, a notice in the form in Schedule A. to this Act, and thereupon the clerk of the peace shall substitute the name of the solicitor so appointed on the record in place of the original solicitor.

11. When a person who desires to make application to a civil bill court under the Trustee Relief Acts, or the Trustee Acts, or under any of such Acts, either resides out of Ireland, or at such distance from the court as to make it impossible or inconvenient to the parties that such proceedings shall be taken in the civil bill court within the jurisdiction in which the person making the application, or any of them, shall reside, such proceeding may be taken in the civil bill court within the jurisdiction of which the cestuique trusts, or any of them, reside.

Application under Trustee Relief Acts, &c., may be made in civil bill courts.

12. The service of a civil bill issued under Part II. of the Act of the fortieth and forty-first Victoria, chapter fifty-six, may be proved by affidavit.

Service of certain civil bills may be proved by affidavit. Certiorari to be directed to clerk of the peace.

13. A writ of certiorari directed by a judge of the High Court of Justice to remove a judgment of a civil bill court into the superior court, under the Act of the twenty-seventh and twenty-eighth Victoria, chapter ninety-nine, section nine, or under any other Act, shall be directed to the clerk of the peace for the county for which the civil bill court is held, and the return shall, unless the judge shall otherwise specifically direct, be made thereon by the said clerk of the peace.

Taxation of costs.

14. The clerk of the peace shall tax the costs of the several proceedings in the civil bill court between party and party, and solicitor and client. He shall have regard in the taxation of costs to the orders and schedules of fees regulating the costs of proceedings in the civil bill court, where such fees are applicable, and when the said schedules of fees are found not to be applicable the clerk of the peace shall adopt the orders and schedules of fees regulating the taxation of costs in the High Court of Justice in Ireland.

15. Every decree, dismiss, or order made under the jurisdiction conferred on a civil bill court by Part II. of the said Act of the fortieth and forty-first Victoria, chapter fifty-six, by the Probate and Letters of Administration (Ireland) Act, 1857, and by the tenth section of the County Court Amendment (Ireland) Act, 1882, shall be subject to appeal to the judge of assize for the respective counties at the next assizes, and every such appeal shall be brought in the manner provided by the fourth, fifth, and sixth sections of the said County Court Amendment (Ireland) Act, 1882: Provided always, that the notice of appeal required by the said Act may in appeals brought under this section be given within four

Appeals in proceedings under the Probate and Letters of Administration (Ireland) Act, 1857, and by the tenth section of the County Court Amendment (Ireland) Act, 1882.

A.D. 1864.

clear days from the recording by the clerk of the peace of the decree, dismiss, or order appealed from, and that the recognizance of appeal in the said Act referred to when any act shall be ordered to be performed other than the payment of money shall be in such sum as the clerk of the peace shall consider reasonable. 5

Judges shall state a case on a point of law.

16. Any person aggrieved by an order made by a judge of assize upon any question of law arising upon an appeal heard under the jurisdiction conferred by the last preceding section may require such judge to reserve such question of law by way of case stated for the consideration of Her Majesty's Court of Appeal in Ireland, 10 or of any division of Her Majesty's High Court of Justice in Ireland, and such question shall thereupon be reserved accordingly.

Appeals against orders of justices for recovery of wages to be heard as ordinary civil bills.

17. An appeal authorised to be taken from an order of justices of the peace to quarter sessions in a case for the recovery of wages may be made to the nearest civil bill court. The clerk of the peace 15 shall cause such appeal to be entered as an ordinary civil bill, and the civil bill court shall hear and determine the said appeal as if it were an ordinary civil bill.

Evidence.

Evidence of a statutory mortgage.

18. A copy of an affidavit purporting to have been filed as a 20 statutory mortgage, and to have been issued as an office copy from the office of the registrar of deeds in Ireland, shall in any suit in a civil bill court in which it is necessary to prove a statutory mortgage be *prima facie* evidence that the judgment, decree, or order referred to in the said affidavit has been duly recovered, and 25 that the necessary acts leading to the registration of the said affidavit have been duly performed.

Seal of the Court.

Seal to be provided for county court.

19. There shall be made a seal for the civil bill court, and all decrees, dismisses, orders, summonses, and other documents issuing 30 out of the said court shall be sealed with the seal of the court, and every decree, dismiss, order, summons, and other document issuing under the seal of the court shall have a general form of heading and conclusion according to form in Schedule B. hereto.

Forgery of the seal, &c. a misdemeanour.

20. Every person who shall forge the seal or any decree, 35 dismiss, order, or other document purporting to have been issued from the court, or shall seek to enforce any forged decree, dismiss, or document, knowing the same to be forged, or deliver or cause to be delivered to any person a copy of any decree, dismiss, order,

or other document falsely purporting to be a copy of any decree, dismiss, order, or other document, knowing the same to be false, or who shall not or profess to act under any false colour or pretence of the process of the said court, shall be guilty of a misdemeanor.

A.D. 1834.

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Officers.

21. The clerk of the peace shall be the principal officer of the county court in respect of its civil jurisdiction. He shall cause to be kept books for the entry of all civil bill suits, and shall cause to be recorded therein all decrees, dismisses, and orders, and shall
10 issue the said decrees, dismisses, and orders under the seal of the court. The said books shall be records of the respective counties to which they belong. No clerk of the peace, nor the principal assistant of a clerk of the peace, shall act as a solicitor in any suit in the civil bill court for which he is acting, and if he shall so act
15 he shall forfeit the sum of fifty pounds to any person who shall sue for the same within one year after such offence has been committed.

Duties of the clerk of the peace.

22. Nothing contained in section thirteen of the Act of the fortieth and forty-first years of the reign of Her present Majesty,
20 chapter fifty-six, shall prevent a clerk of the Crown and peace acting in the commission of the peace for a county or city other than the county to which he has been appointed as such clerk of the Crown and peace.

Clerks of the peace and their principal assistants not to act as solicitors in suit in the

23. Clerks of the Crown and peace are hereby empowered to
25 take affidavits in any county in Ireland to be used in any suit or matter arising or pending in the High Courts of Justice or in any county court in England or in Ireland.

Clerks of the Crown and peace enabled to act in the commission of the peace for counties other than the counties for which they act as clerks of the peace.

24. The Lord Chancellor may by order, from time to time, direct that any specified clerk of the Crown and peace shall have
30 and exercise the judicial powers of a civil bill court in relation to any suit instituted in a civil bill court in which a primary order has been made by the chairman under Part II. of the Act of the fortieth and forty-first Victoria, chapter fifty-six; provided, however, that an order made by a clerk of the Crown and peace shall be
35 subject to the same right of appeal as if made by a chairman of a civil bill court, and provided further that such appeal may be made to the chairman; and it shall not be necessary to make any deposit with the clerk of the peace as security for the costs of such appeal.

Clerks of the Crown and peace empowered to take affidavits.

Judicial powers given to specified clerks of the Crown and peace.

A.D. 1864.

25. When a town in which quarter sessions or civil bill courts are held is situated in two counties, and separate court-houses are maintained in such town for the holding of courts for each county, the Lord Lieutenant may, by and with the advice and consent of the Privy Council in Ireland, order that such quarter sessions and civil bill courts, and any other courts within the jurisdiction of a chairman, shall be held in either of the said court-houses; and such court-house shall for the purposes of this Act be deemed to be situated in the county for which such courts shall be held; and the grand juries of the respective counties are hereby empowered to present for a proper share of the expense of maintaining a court-house which shall be so used under this Act; and the clerks of the peace of the respective counties shall arrange in concert with each other, when settling the lists of sessions, that sessions for each county shall not be holden in such court-house at the same time for each county.

26. The enactments described in Schedule C. to this Act are hereby repealed to the extent set forth in the said schedule, save as to anything done or suffered before the passing of this Act.

SCHEDULES.

A.D. 1844.

SCHEDULE A.

In the county court of
Between

5

Plaintiff.
Defendants.

I desire to change Mr. solicitor on record, and to appoint
Mr. solicitor in his stead.

Dated this

10

{ Plaintiff (or Defendant,
as the case may be)

SCHEDULE B.

In the county court of
County of }
15 Division of }

Between

Plaintiff.
Defendant.

Given under the seal of the court this day of
Solicitor for

18

Seal.

SCHEDULE C.

20

Act

Extent of Repeal.

14 & 15 Vict. cap. 57.	-	Sections 10, 11, 92, 114, 139, 140, 141, 142, 144, in whole. Section 110, so far as relates to signing decrees and dismisses.
25 20 & 21 Vict. cap. 79.	-	Section 62 in whole.
23 & 24 Vict. cap. 154	-	Section 91 in whole.
23 & 24 Vict. cap. 93.	-	Section 40, sub-section f, so far as relates to the jurisdiction within which applications are to be made.
30 40 & 41 Vict. cap. 56.	-	Sections 43 and 45 in whole.
45 & 46 Vict. cap. 29.	-	Section 4, so far as it excepts suits or matters instituted under the equitable jurisdiction of county courts. Section 11 in whole.

